

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FREDERICK WAYNE SMITH,
Plaintiff,
v.
JOHN DOE #1, et al.
Defendant.

Case No. 1:25-cv-00109 KES EPG (PC)
ORDER DISMISSING ACTION
WITHOUT PREJUDICE FOR FAILURE
TO PAY THE FILING FEE
(Docs. 11, 12)

Plaintiff Frederick Wayne Smith is a state prisoner proceeding pro se in this civil rights action under 42 U.S.C. § 1983. On January 29, 2025, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's motion to proceed in forma pauperis be denied. Doc. 8. The magistrate judge found that plaintiff had sufficient funds in his trust account to pay the \$405.00 filing fee for this action. *Id.* Plaintiff filed another motion to proceed in forma pauperis on February 21, 2025. Doc. 10. That application showed plaintiff had the sum of \$3,687.76 in his trust account as of January 30, 2025, and had an average monthly balance of \$5,466.14 in his trust account for the six months prior to that date. *Id.* at 2.

On March 7, 2025, the Court ordered plaintiff to pay the filing fee for this action. Doc. 11. Despite the Court's warning that failure to comply with the order would result in dismissal (*id.* at 2), plaintiff has failed to pay the required filing fee. Without such payment, the

1 action cannot proceed before the Court. *See Saddozai v. Davis*, 35 F.4th 705, 709 (9th Cir. 2022).

2 On April 4, 2025, plaintiff filed a document objecting to the Court's March 6, 2025 order.
3 Doc. 12. Plaintiff's filing appears to assert that at some point he submitted a trust withdrawal
4 request for \$405, but plaintiff does not indicate a date he made that request or provide any
5 supporting documentation. *Id.* The Court has not received any such payment in this case.
6 Plaintiff's filing otherwise makes various allegations regarding matters that appear to be unrelated
7 to payment of the filing fee in this case. *Id.* Plaintiff's filing attaches various exhibits that
8 likewise do not appear to relate to payment of the filing fee. *Id.*

9 The Court's March 7, 2025 order warned plaintiff that if he failed to pay the filing fee
10 within 30 days, this action would be dismissed without prejudice for failure to pay the filing fee.
11 Docs. 29, 30. Plaintiff has not paid the filing fee and the deadline for him to do so has expired.

12 Based upon the foregoing, the Court ORDERS:

- 13 1. This action is DISMISSED without prejudice.
- 14 2. The Clerk of Court is directed to close the case.

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17 IT IS SO ORDERED.

18 Dated: April 18, 2025


UNITED STATES DISTRICT JUDGE